

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**ANGELA BROOKS, BETTY CHENIER,
EDDIE CUMBO, BRIGITTE GONZALEZ,
KEISHA GRIGSBY, JOSHUA JONES ET. AL.**

Plaintiffs,

VS.

UNION PACIFIC RAILROAD COMPANY

Defendant.













CIVIL ACTION NO. 4:20-CV-01107

JURY REQUESTED

**PLAINTIFFS' MOTION TO STAY
DEFENDANT'S MOTION TO DISMISS PROCEEDINGS**

TO THE HONORABLE JUDGE OF THIS COURT

COMES NOW Angela Brooks, Betty Chenier, Eddie Cumbo, Brigitte Gonzalez, Keisha Grigsby, Joshua Jones et. al. (“Plaintiffs”), and moves this court to stay Union Pacific Railroad Company’s (“Defendant”) pending Motion to Dismiss and the Court’s docket date (April 24, 2020) until the Court has ruled on the Plaintiffs’ forthcoming motion to remand under 28 U.S.C § 1447 (c). In support of this motion and without waiving their right to file their Motion to Remand, Plaintiffs respectfully show unto this Court the following:

BACKGROUND

1. Plaintiffs filed their Original Petition for Damages in state court on February 12, 2020 against Defendant. On February 14, 2020, Plaintiffs filed a First Amended Petition for Damages and followed it with a Second Amended Petition for Damages on February 26, 2020.

2. The case was assigned to the 152nd Judicial District Court of Harris County, Texas.

3. Defendant was served on March 11, 2020.

4. Defendant promptly filed a Notice of Removal on March 28, 2020. Plaintiffs received Notice of Filing of Notice of Removal on March 28, 2020.

5. Under 28 U.S.C § 1447 (c), Plaintiffs' have thirty (30) days, or until April 27, 2020, with which to file a Motion to Remand.

6. Defendant filed a Motion to Dismiss on April 3, 2020.

7. The Court set a docket date of April 24, 2020.

8. To date, Plaintiffs have not filed any document into this case or in any way availed itself to the jurisdiction of this Court.

REASONS TO STAY THE PROCEEDINGS

9. Plaintiffs' originally filed this matter in state court. Defendants unilaterally made the choice to remove this case to federal court. As previously mentioned, 28 U.S.C § 1447 (c) allows Plaintiffs' to file a Motion to Remand 30 days from the date of the Defendant's filing of a Notice to Remove. Prior to that 30 days, Plaintiffs should not be forced to avail themselves to the jurisdiction of this Court.

10. Plaintiffs will be filing a Motion to Remand prior to their April 27, 2020 deadline. A favorable ruling on Plaintiffs' Motion to Remand will preempt the Court's ruling on Defendant's

Motion to Dismiss. Thus, it is in the best interest of judicial economy to stay the proceedings on Defendant's Motion to Dismiss until after a ruling on Plaintiffs' forthcoming Motion to Remand.

11. Plaintiffs are extremely prejudiced by having to respond to Defendant's premature motion to dismiss without first being heard on, or the court even receiving, their motion to remand. Further, the filing of Defendant's Motion to Dismiss and the timeline involved with it completely averts Plaintiffs' right to be remanded back to state court within 30 days allowed under 28 U.S.C § 1447 (c).

12. This Court has no other pending motions before it. Further, the Defendant's Motion to Dismiss is the only live motion that has been filed. Thus, granting Plaintiffs' Motion to Stay and postponing the proceedings on Defendant's Motion to Dismiss will not prejudice the Defendant or any deadlines.

WHEREFORE, Plaintiffs respectfully requests that this Court grant their motion and enter an order staying Defendant's Motion to Dismiss Proceedings pending a final determination on Plaintiffs' forthcoming Motion to Remand. Plaintiffs also request any and all other relief to which this this Court deems equitable and just.

Respectfully submitted,

STEPHENS REED & ARMSTRONG, PLLC

By: /s/ Derrick A. Reed

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 23, 2020 in accordance with the Federal Rules of Civil Procedure by filing the document with the Court's ECF system. Electronic copies were also emailed to all counsel.

/s/ Derrick Reed

Derrick A. Reed

CERTIFICATE OF CONFERENCE

I hereby certify that on April 21, 2020, I held a telephonic conference with counsel for Union Pacific, Mr. Earnest Wotring, regarding the forgoing PLAINTIFFS' MOTION TO STAY DEFENDANT'S MOTION TO DISMISS PROCEEDINGS. On April 22, 2020, Mr. Wotring informed me that Union Pacific opposes Plaintiffs' motion.

/s/ Derrick Reed

Derrick A. Reed